

February 8, 2021

The Honorable Mike Lefor
North Dakota State Capitol
600 East Boulevard
Bismarck, ND 58505-0360

Re: House Bill 1330 “Relating to prohibiting covered entities from selling users’ protected data without consent”

Dear Chairman Lefor and Members of the House Industry, Business and Labor Committee:

I am writing on behalf of RELX and LexisNexis to express our strong opposition to House Bill 1330 “Relating to prohibiting covered entities from selling users’ protected data without consent”. Although the bill aims to grant consumers additional rights pertaining to the sale of protected data, House Bill 1330 would result in a myriad of unintended consequences for North Dakota consumers, businesses, and the state economy. RELX/LexisNexis urges you to review the findings of the Interim Commerce Committee’s study of protections, enforcement, and remedies regarding the disclosure of consumers’ personal data that took place in 2019 and 2020. The Interim Commerce Committee ultimately rejected a state-led privacy or data regulation effort.

LexisNexis is a division of RELX and is a leading provider of business information, including fraud prevention and identity verification services, for Fortune 1000 businesses, government and law enforcement agencies, and the property and casualty insurance industry. LexisNexis plays a vital role in supporting government, law enforcement, and business customers who use our information services for important uses including: detecting and preventing identity theft and fraud, finding deadbeat parents or missing children, locating suspects, and preventing and investigating criminal and terrorist activities.

Below is a sample of the negative consequences that would result if House Bill 1330 became law:

The bill would create an **incredibly burdensome regulatory regime** that is sweepingly different than other established privacy frameworks such as the California Consumer Privacy Act (CCPA) or the General Data Protection Regulation (GDPR), both for which companies have already invested valuable time and resources to ensure compliance. The result of establishing yet another compliance framework would be extremely costly, in both time and resources, for North Dakota Businesses, especially after these businesses have already gone through an exhaustive implementation process to ensure compliance with existing laws.

Furthermore, this new regulatory regime would require an **unworkable opt-in requirement** for every single potential transaction. It is important to note that existing consumer privacy regulation frameworks have accepted opt-out provisions as the most consumer-friendly mechanism to exercise control over their personal data. Especially in areas such as fraud prevention, consumer data could not be used for fraud prevention solutions unless they have proactively opted-in, something they may be unlikely to do due to prevalent notification fatigue. Thus, such a requirement would hurt legitimate consumers as their data could not be used for fraud prevention measures.

House Bill 1330 would also directly **result in costly litigation** for North Dakota companies, even those complying with the provisions of the law in good faith. A private right of action is never a productive penalty for regulatory compliance issues as it takes time and resources that would be better spent on creating jobs and investing in innovation. Additionally, a private right of action is not appropriate as enforcement tools already exist including the ability of the Attorney General to bring regulatory actions against companies that engage in unfair or deceptive business practices.

The issues outlined above provide just a few examples of how House Bill 1330 would create a disastrous regulatory environment for North Dakota consumers and businesses. RELX encourages the committee to recognize the comprehensive work already completed by the Interim Commerce Committee that ultimately rejected pursuit of a state-led privacy or data regulation effort.

Thank you for your consideration of RELX's concerns pertaining to House Bill 1330. Should you have any questions, please do not hesitate to contact me either via e-mail at gabby.reed@relx.com or at 202-403-7893.

Sincerely,

A handwritten signature in black ink that reads 'Gabby Reed'.

Gabby Reed
Manager, State Government Affairs - Rocky Mountain Region
RELX Group